IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11065 of 1994

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11065 of 1994

MR CS UPADHYAY for Petitioner No. 1

Mrs. Manisha L. Shah, AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 19/10/2004

ORAL JUDGEMENT

1. This writ petition under Article 226 of the

Constitution is directed against the respondents-Authorities with a specific grievance that the juniors to the petitioner came to be promoted from the post of Head Clerk to the post of Office Superintendent and, though the petitioner was senior to all of them, and, particularly, in the seniority list of Head Clerks as on 1st January 1993, which was published by Notification dated 22nd March 1993, the petitioner's name figures at Sr. No.1.

2. The petitioner further submitted that he made a representation to the concerned Authorities on 5th April 1994. However, the said representation was not considered and the petitioner had no option but to approach this Court by way of the present petition.

3. This Court, by order dated 19th September 1994, issued Rule making it returnable in six weeks. However, no affidavit-in-reply is filed by the respondents.

4. Today, when the matter is called out for final hearing, learned Assistant Government Pleader, Mrs. Shah, has placed on record the order dated 16th June 2001 passed by the Director of Medical Services, ESI, Ahmedabad, whereby, it is stated that, at the relevant point of time, the petitioner was not considered for promotion in view of his unauthorised absence of 360 days and the post of Office Superintendent was a post of responsibility and, therefore, the petitioner was not considered. However, subsequently, relying on the provisions of the Government Resolutions with regard to seniority dated 30th March 1994, 5th July 1995 and 2nd August 1996, a revised seniority list for the post of clerk was prepared and, thereafter, a revised seniority list for the post of head clerk was also finalized and, accordingly, the petitioner was promoted to the post of Office Superintendent by order dated 21st September 1999 and, consequently, the petitioner was also granted deemed date in the cadre of Office Superintendent with effect from 3rd April 1984 vide order dated 16th March 1991.

5. In view of the letter dated 16th June 2001 placed on record by the learned Assistant Government Pleader, Mrs. Shah, the grievance of the petitioner no more remains to be redressed. Hence, no further orders are required to be passed in this petition. Rule is discharged with no order as to costs.

(Anant S. Dave, J.)
(swamy)